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09/471,153	12/23/1999	JEFFREY LEE JONES	8200.163	7070

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EXAMINER

NGUYEN, XUAN LAN T

ART UNIT	PAPER NUMBER
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3683

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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/471,153
Filing Date: December 23, 1999
Appellant(s): JONES ET AL.

MAILED

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GROUP 3600

George Ayvazov
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/22/03.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1, 4-6 and 8 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1 and 4-6 are rejected under 35 U.S.C. 102(b). This rejection is set forth in a prior Office Action, mailed on 6/17/03. Claim 8 is rejected under 35 U.S.C. 103(a). This rejection is set forth in a prior Office Action, mailed on 6/17/03.

Claims 1 and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Urban et al. (USP 4,476,968).

Urban et al. show a vehicle axle beam and drum brake assembly as in the present invention comprising: a pneumatic brake actuator cylinder 41 with an actuator rod 124; a brake actuating shaft 34; a brake actuating lever 39; an S-cam 32; a brake spider 14 non-removably secured to an axle beam, said brake spider including a pivoting end support plate and an actuator support plate provided with an opening 56 for receiving shaft 34 therethrough; a mounting sleeve 36 secured at a first end to cylinder 41 at bracket 40, and secured at a second end to the spider at bracket 106; a pair of shoes 22 for frictional engagement with drum 12; a cam follower 42 secured on each shoe; wherein when said actuator rod 124 is extending to actuate shaft 34 to rotate S-cam 32 to bring the shoes into engagement with drum 12.

Re: claims 4-6, Urban further shows first mounting bracket 40 and second bracket 106 as claimed.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Urban et al. (USP 4,476,968).

Urban's vehicle axle beam and drum brake, as discussed in the above rejection of claims 1 and 4-6, meets most of the claimed feature of claim 8 except for "brake spider welded to said axle beam" and "said actuator support plate being axially offset from said pivoting end support plate;". Urban further shows in figure 6 that the pivoting end support plate including aperture 58 is axially offset from the actuator support plate at aperture 56. Urban shows in figure 1 where the spider 14 is secured to an axle beam with bolts through bolt holes 16. The Examiner takes an Official Notice that bolting or welding are old and well-known methods of securing a spider to an axle and would have been obvious to one of ordinary skills to use either the bolts or the welds to secure the spider to the axle.

(11) Response to Argument

Re: claim 1, Appellant argues that Urban does not disclose an axle beam. The Examiner would like to call attention to column 5, lines 35-37 of Urban where Urban states "spider assembly 14 includes a stamped spider member 52 having a generally annular aperture 54 therethrough for receipt of an axle shaft or the like." It is clear from this passage that Urban's spider plate is secured to an axle beam, as claimed in the instant invention. Appellant further argues that Urban only discloses an axle shaft and not an axle beam as claimed in claim 1. In reviewing the drawings and specification, Appellant shows an axle beam 2 in a shape of a circular shaft. The Examiner is at a loss of the difference between Appellant's axle beam 2 shown as a circular shaped shaft and Urban's disclosure of an axle shaft.

Appellant argues that bolting is considered to be removable while claim 1 calls for "non-removably secured". In reviewing the specification in order to define "non-removably secured", it is found from page 3, line 21 to page 4, line 1, where it states, "A brake spider 5 is non-removably secured to the axle beam2, preferably by welding." First, the term "preferably" does not exclude other means of fastening besides welding. Hence, the term "non-removably secured" is not defined in the specification as only for welding. Secondly, in the context of securing the spider plate to the axle, bolting is just as "non-removably" as welding until it is necessary to remove the spider plate by using a torch to cut the weld and to remove the spider plate. Appellant further argues that Examiner's line of reasoning for the term "non-removably" is erroneous. The Examiner would like to re-emphasize Appellant's definition of "non-removably" as stated in the specification wherein as discussed above, said definition does not exclude other means of fastening and said definition does not state the only method of "non-removably" securing to be welding. Based on Appellant's specification, the Examiner maintains the same position on the interpretation of the term "non-removably".

Re: claim 8, Appellant argues that Urban does not disclose an axle beam. The Examiner would like to call attention to column 5, lines 35-37 of Urban where Urban states "spider assembly 14 includes a stamped spider member 52 having a generally annular aperture 54 therethrough for receipt of an axle shaft or the like." It is clear from this passage that Urban's spider plate is secured to an axle beam, as claimed in the instant invention. Appellant further argues that Urban only discloses an axle shaft and not an axle beam as claimed in claim 1. In reviewing the drawings and specification,

Art Unit: 3683

Appellant shows an axle beam 2 in a shape of a circular shaft. The Examiner is at a lost of the difference between Appellant's axle beam 2 shown as a circular shaped shaft and Urban's disclosure of an axle shaft.


Appellant argues that claim 8 calls for the spider plate to be welded to the axle while Urban does not disclose a welded connection. Appellant is correct. That is why claim 8 was rejected as an obviousness rejection and not an anticipation rejection. The reason being bolting and welding are both old and well-known methods of fastening. Urban discloses in column 6, lines 44-47 that these two methods are used interchangeably and are considered as equivalents in terms of methods of fastening. Appellant further argues that Urban does not disclose bolting and welding to be equivalent methods of fastening. The Examiner is at a lost; since it is clear from the usage of the term "or" in the cited passage "bolted or welded". An ordinary person would have interpreted that as bolting or welding would perform the same fastening function and that it would be up to the person to choose either method to achieve the same result of fastening the spider member 52 to the cam shaft tube 36.



For the above reasons, it is believed that the rejections should be sustained.

Application/Control Number: 09/471,153
Art Unit: 3683

Page 7

Respectfully submitted,


Lan Nguyen
August 2, 2004

Conferees
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